

REMARKS/DISCUSSION OF ISSUES

Claims 1-20 are pending in the application.

Applicant thanks the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority documents.

Applicant thanks the Examiner for acknowledging that the drawings are acceptable.

Claims 5 and 7 are amended for non-statutory reasons, simply to clarify the antecedent basis for one claim element as requested by the Examiner. The claims are not narrowed in scope and no new matter is added.

New claims 13-20 are also added. No new matter is added.

CLAIM OBJECTIONS

Claims 5 and 7 have been amended to clarify the antecedent basis for one claim element as requested by the Examiner. Accordingly, withdrawal of the claim objections is respectfully requested.

35 U.S.C. § 112

The Office Action rejected claim 7 and 8 under 35 U.S.C. § 112 as allegedly being indefinite.

Applicant respectfully traverses those rejections. As the Examiner has noted in the Office Action, FIG. 2 shows "the reflecting layer 121 extends over the side faces and lower side of the optical plate." Thus, FIG. 2 does show an embodiment of the feature of claim 7 where "the second reflecting layer extends over the side faces and a lower side of the optical waveguide plate." This is also described in the specification, for example, on page 4, lines 24-25, which states that "the second reflecting layer 121 covers the entire lower side 12 and also the side faces 13-16" of the optical waveguide 1 (see also page 6, lines 15-16). Meanwhile, reflecting layer 205 shown in FIG. 2 is not an embodiment of the second reflecting layer, but instead is a third reflecting layer (see page 7, 25-28).

Accordingly, withdrawal of the rejections of claims 7 and 8 under 35 U.S.C. §

112 is respectfully requested.

35 U.S.C. § 102

The Office Action rejected claim 1, 2, 4 and 5 under 35 U.S.C. § 102 over Dupree U.S. Patent 3,077,535 ("Dupree").

Applicant respectfully traverses those rejections for at least the following reasons.

Claim 1

Among other things, the device of claim 1 includes a plurality of light sources of different colors.

Applicant respectfully submits that Dupree discloses no such feature.

The Office Action states that such a feature is disclosed: as elements 25 and 30 in FIG. 2; at col. 4, line 4; and at col. 6, lines 27-28.

Applicant respectfully disagrees.

Applicant respectfully submits that Dupree does not disclose anywhere that the lighting device "P" includes a plurality of lights having different colors. Element 25 is a "body" that holds a lamp 30. The reference numerals are not associated with any particular color.

Reproduced below is the text at col. 4, line 4 of Dupree.

**of the lamp-carrying body 25. It is also apparent that
only the plastic that forms the body 25 may be colored
5 to produce the colored light, the sleeve 32 being colorless.**

Applicant sees no mention in the text above that any lighting device "P" includes a plurality of lamp-carrying bodies 25 having different colors.

Meanwhile, reproduced below is the text at col. 6, lines 27-28 of Dupree.

**25 forwardly from the panel for observation by the pilot.
In many instances, it is desirable to have the indicator
lamp transmit light of some distinct color, for example,
red, blue or green. For this purpose, the transverse wall**

Again, Applicant respectfully submits that the cited text does not disclose that a panel "P" includes a plurality of lights having different colors. Instead, it only states that the lamp should transmit "some distinct color" (not "colors").

This is not surprising since Dupree does not even disclose any "lighting device for generating mixed colors" as recited in claim 1.

Therefore, Applicant respectfully submits that claim 1 is patentable over Dupree for at least this reason.

Furthermore, Dupree does not teach or suggest an upper side of each cavity coated with a reflecting layer.

Conversely, the recesses R taught by Dupree have instead "an opaque shield or light mask 34 [which] may comprise a thin flanged sheet metal disk." The Office Action asserts that this metal layer "is considered to be and readable as a first reflecting layer." However, Applicant respectfully submits that there is no legal basis to justify making such a leap of assumption. Dupree does not teach that the flanged sheet metal disc is reflecting. When a function (such as reflectivity) is not taught in a reference, the Examiner is justified in assuming inherency of that function only when the composition of the prior art object is the same as that specified in the claim (MPEP 2112), and that is not the case here.

The Office Action cites Merriam-Webster for the proposition that Dupree teaches that the light mask 34 is a "reflective layer" because Webster defines "metal" as any of various fusible, ductile, and typically lustrous materials . . . (emphasis added). However, Webster also teaches that "typical" is synonymous with "normal" or "usual." Typically does not mean "always." Thus, even assuming *arguendo* that one could divine the reflective properties of Dupree's light mask 34 by resort to Merriam-Webster, it is far from inherent that a metal disk would constitute a reflective layer. So, for example, matte metal surfaces are very well-known, and such matte metal surfaces are known to be "lacking or deprived of luster or gloss" (Merriam-Webster).

Therefore, Applicant respectfully submits that Dupree's light mask 34 is not inherently reflective, and indeed, as will be discussed below, making the light mask 34 reflective would appear to be contrary to the teachings of Dupree.

Just because the light mask 34 may be reflective does not justify reading "reflecting layer" on that light mask to support a rejection under §§ 102-103.

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. ... "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " -- MPEP 2112 (citations omitted)

In fact, Dupree actually teaches away from making his "opaque shield or light mask 34 ... thin flanged sheet metal disk" reflective, by teaching that "[t]he metal disc also has the function of a thermal conductor to prevent excessive concentration of the heat from the lamp." (Col. 4, lines 8-10.) It is well known that if metal near a lamp is to be used as a thermal conductor it should not be made reflective, because then it would be less able to absorb the light and conduct the resulting heat. A reflective surface will actually increase the heat in a cavity by reflecting the light back into it, as is accomplished by reflective metallic insulators for example.

Therefore, for at least this additional reason, Applicant respectfully submits that claim 1 is patentable over Dupree

Accordingly, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 102 over Dupree be withdrawn.

Claims 2, 4, 5 and 12

Claims 2, 4, 5 and 12 depend from claim 1 and are deemed patentable for at least the reasons set forth above with respect to claim 1.

NEW CLAIMS

New claims 13-20 have been added. The lighting devices of claims 13-20 each include a plurality of light sources of different colors, wherein the optical waveguide mixes the colors of the light sources to output a mixed color light through the light emission surface.

Applicant respectfully submits that Dupree neither discloses nor suggests these features.

Claims 14-30 include various other features not disclosed or suggested by Dupree.

CONCLUSION

In view of the foregoing explanations, Applicant respectfully requests that the Examiner reconsider and reexamine the present application, allow claims 1-20 and pass the application to issue. In the event that there are any outstanding matters remaining in the present application, the Examiner is invited to contact Kenneth D. Springer (Reg. No. 39,843) at (703) 715-0870 to discuss these matters.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment (except for the issue fee) to Deposit Account No. 50-0238 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17, particularly extension of time fees.

Respectfully submitted,

VOLENTINE FRANCOS, P.L.L.C.

Date: 26 November 2003

By: 
Kenneth D. Springer
Registration No. 39,843

VOLENTINE FRANCOS, P.L.L.C.
12200 Sunrise Valley Drive, Suite 150
Reston, Virginia 20191
Telephone No.: (703) 715-0870
Facsimile No.: (703) 715-0877